

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSHUA GARRETT SMITHSON,	)	
	)	Case No. 3:22-cv-103
Plaintiff,	)	
	)	JUDGE KIM R. GIBSON
v.	)	
	)	
C.O. HOWELL, <i>et al.</i>	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

This matter is before Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72.

On June 24, 2022, Joshua Garrett Smithson ("Plaintiff") sought leave from the Court to initiate the present matter in forma pauperis. (ECF No. 1). On July 18, 2022, Magistrate Judge Pesto entered an order granting Plaintiff leave to do so. (ECF No. 6). In this order, the Magistrate Judge instructed Plaintiff to send the Court forms for service and a copy of his complaint. (*See id.*). Plaintiff failed to send these materials as instructed and, on October 21, 2022, the Court mailed a second letter to Plaintiff conveying its instructions again.<sup>1</sup> As of this order's entry, Plaintiff has not properly served his complaint on Defendants.

On December 20, 2022, Magistrate Judge Pesto filed a Report & Recommendation ("R&R") recommending that the Court dismiss Plaintiff's complaint for failure to prosecute. (ECF No. 11).

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<sup>1</sup> This letter was sent to Plaintiff at the Bedford County Correctional Facility, where Plaintiff is currently incarcerated. No docket number is available for this correspondence. However, the Court notes that Magistrate Judge Pesto found that the Court had sent Plaintiff this second notice in his Report & Recommendation dated December 20, 2022, (ECF No. 11 at 2), and that Plaintiff did not subsequently object to this factual finding.

In the R&R, the Magistrate Judge informed Plaintiff that he would have fourteen days to file written objections. (*Id.*). Because Plaintiff was an unregistered ECF user, he had until January 6, 2023, to file objections. (*See generally id.*). No party filed objections to the R&R, timely or otherwise. Thus, the Court need give only “reasoned consideration” to the R&R by “afford[ing] some level of review to dispositive legal issues raised by the report[.]” *EEOC v. City of Long Branch*, 866 F.3d 93, 99–100 (3d Cir. 2017).

Upon de novo review of the record in this matter and reasoned consideration of Magistrate Judge Pesto’s R&R at ECF No. 11, the following order is entered.

**AND NOW**, this 27<sup>th</sup> day of February 2023, it is **HEREBY ORDERED** that Magistrate Judge Pesto’s R&R at ECF No. 11 is adopted as the Opinion of the Court for its reasoning and conclusion.

**IT IS FURTHER ORDERED** that Plaintiff’s complaint at ECF No. 7 is **DISMISSED WITHOUT PREJUDICE**.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

**KIM R. GIBSON**  
**UNITED STATES DISTRICT JUDGE**

Notice by U.S. Mail to:

Joshua Garrett Smithson, #22076  
Bedford County Correctional Facility  
425 Imlertown Road  
Bedford, PA 15522